

House Study Bill 658 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
LABOR BILL BY CHAIRPERSON
HORBACH)

A BILL FOR

- 1 An Act establishing a workplace safety improvement program and
- 2 fund administered by the labor commissioner and making an
- 3 appropriation.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

WORKPLACE SAFETY IMPROVEMENT PROGRAM AND FUND

Section 1. NEW SECTION. 88C.1 Definitions.

For purposes of this chapter:

1. "*Commissioner*" means the labor commissioner appointed pursuant to section 91.2.

2. "*Consultant*" means a consultant from the division of labor services of the department of workforce development.

3. "*Employer*" means a private person engaged in a business who has one or more employees.

Sec. 2. NEW SECTION. 88C.2 Workplace safety improvement program established — purpose — grants and loans.

1. A workplace safety improvement program is established for the purpose of awarding grants and loans to employers in this state to promote improvements in workplace safety. The program shall be administered by the commissioner.

2. An employer is eligible to apply for a grant or loan from the workplace safety improvement program if the employer meets the following criteria:

a. A consultant has conducted an on-site consultation visit of the employer's work site.

b. The consultant recommends to the employer specific safety practices or equipment designed to reduce the risk of illness or injury to employees.

3. The commissioner shall make grants or loans to employers for the cost of implementing safety recommendations made by a consultant. An employer shall use funds received from a grant or loan made pursuant to this chapter solely for the purpose of implementing safety recommendations made by a consultant.

Sec. 3. NEW SECTION. 88C.3 Workplace safety improvement fund established.

A workplace safety improvement fund is established as a separate and distinct fund in the state treasury under the control of the commissioner. Moneys deposited or paid into the fund are appropriated to the commissioner for the purposes

1 of the workplace safety improvement program. Notwithstanding
2 section 8.33, moneys in the fund at the end of a fiscal year
3 shall not revert to the general fund of the state.

4 Sec. 4. NEW SECTION. **88C.4 Rules.**

5 The commissioner shall adopt rules pursuant to chapter 17A
6 necessary to administer this chapter.

7 DIVISION II

8 CIVIL PENALTIES COLLECTED BY DEPARTMENT OF WORKFORCE
9 DEVELOPMENT — DEPOSIT IN WORKPLACE SAFETY IMPROVEMENT FUND

10 Sec. 5. Section 73A.21, subsection 8, Code Supplement 2011,
11 is amended to read as follows:

12 8. Any person or entity that violates the provisions of
13 this section is subject to a civil penalty in an amount not to
14 exceed one thousand dollars for each violation found in a first
15 investigation by the division, not to exceed five thousand
16 dollars for each violation found in a second investigation
17 by the division, and not to exceed fifteen thousand dollars
18 for a third or subsequent violation found in any subsequent
19 investigation by the division. Each violation of this section
20 for each worker and for each day the violation continues
21 constitutes a separate and distinct violation. In determining
22 the amount of the penalty, the division shall consider the
23 appropriateness of the penalty to the person or entity charged,
24 upon determination of the gravity of the violations. Any civil
25 penalties collected by the department shall be deposited in
26 the workplace safety improvement fund established by section
27 88C.3. The collection of these penalties shall be enforced in
28 a civil action brought by the attorney general on behalf of the
29 division.

30 Sec. 6. Section 84C.5, subsection 2, Code 2011, is amended
31 to read as follows:

32 2. An employer who violates the provisions of section 84C.3
33 with respect to the department shall be subject to a civil
34 penalty of not more than one hundred dollars for each day of
35 the violation. Any civil penalties collected by the department

1 shall be ~~forwarded to the treasurer of state and deposited in~~
2 the ~~general~~ workplace safety improvement fund of the state
3 established by section 88C.3.

4 Sec. 7. Section 88.14, subsection 12, Code 2011, is amended
5 to read as follows:

6 12. *Collection of penalties.* Civil penalties owed under
7 this chapter shall be paid to the commissioner for deposit
8 ~~with the treasurer of state and shall accrue to the state in~~
9 the workplace safety improvement fund established by section
10 88C.3 and may be recovered in a civil action in the name of the
11 state brought in the district court of the county where the
12 violation is alleged to have occurred or where the employer has
13 its principal office.

14 Sec. 8. Section 88A.10, subsection 3, Code 2011, is amended
15 to read as follows:

16 3. A person who fails to obey a safety related requirement
17 listed on a sign displayed at an amusement ride pursuant to
18 section 88A.16, subsection 2, is subject to a civil penalty
19 of one hundred dollars. Any civil penalties collected by the
20 division shall be deposited in the workplace safety improvement
21 fund established by section 88C.3.

22 Sec. 9. Section 88B.12, Code 2011, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 3. Any civil penalties collected by
25 the department shall be deposited in the workplace safety
26 improvement fund established by section 88C.3.

27 Sec. 10. Section 89.13, Code 2011, is amended to read as
28 follows:

29 **89.13 Civil penalty allowed.**

30 If upon notice and hearing the commissioner determines that
31 an owner has operated a facility in violation of a safety
32 order, the commissioner may assess a civil penalty against
33 the owner in an amount not exceeding five hundred dollars, as
34 determined by the commissioner. An order assessing a civil
35 penalty is subject to appeal to the employment appeal board and

1 to judicial review. The commissioner may commence an action
2 in the district court to enforce payment of a civil penalty.
3 Revenue from the penalty provided in this section shall be
4 ~~remitted to the treasurer of state for deposit~~ deposited in
5 the general workplace safety improvement fund of the state
6 established by section 88C.3.

7 Sec. 11. Section 89A.18, Code 2011, is amended to read as
8 follows:

9 **89A.18 Civil penalty.**

10 If upon notice and hearing the commissioner determines
11 that an owner has operated a conveyance after an order of the
12 commissioner that suspends, revokes, or refuses to issue an
13 operating permit for the conveyance has become final under
14 section 89A.10, subsection 2, the commissioner may assess a
15 civil penalty against the owner in an amount not exceeding five
16 hundred dollars, as determined by the commissioner. An order
17 assessing a civil penalty is subject to appeal under section
18 89A.10, subsection 2, in the same manner and to the same extent
19 as decisions referred to in that subsection. The commissioner
20 may commence an action in the district court to enforce payment
21 of the civil penalty. A record of assessment against or
22 payment of a civil penalty by any person for a violation of
23 this section shall not be admissible as evidence in any court
24 in any civil action. Revenue from the penalty provided in this
25 section shall be ~~remitted to the treasurer of state for deposit~~
26 deposited in the state general workplace safety improvement
27 fund established by section 88C.3.

28 Sec. 12. Section 90A.11, subsection 3, paragraph e, Code
29 Supplement 2011, is amended to read as follows:

30 e. Civil penalties recovered pursuant to this subsection
31 shall be ~~remitted by the commissioner to the treasurer of~~
32 ~~state for deposit~~ deposited in the general workplace safety
33 improvement fund of the state established by section 88C.3.

34 Sec. 13. Section 91A.12, subsections 1 and 4, Code 2011, are
35 amended to read as follows:

1 1. Any employer who violates the provisions of this chapter
2 or the rules promulgated under it shall be subject to a civil
3 money penalty of not more than five hundred dollars per pay
4 period for each violation. The commissioner may recover such
5 civil money penalty according to the provisions of subsections
6 2 to 5. Any civil money penalty recovered shall be deposited
7 in the general workplace safety improvement fund of the state
8 established by section 88C.3.

9 4. An employer may seek judicial review of any assessment
10 rendered under subsection 3 by instituting proceedings for
11 judicial review pursuant to chapter 17A. However, such
12 proceedings must be instituted in the district court of the
13 county in which the violation or one of the violations occurred
14 and within thirty days of the day on which the employer was
15 notified that an assessment has been rendered. Also, an
16 employer may be required, at the discretion of the district
17 court and upon instituting such proceedings, to deposit the
18 amount assessed with the clerk of the district court. Any
19 moneys so deposited shall either be returned to the employer
20 or be forwarded to the commissioner for deposit in the general
21 workplace safety improvement fund of the state established by
22 section 88C.3, depending on the outcome of the judicial review,
23 including any appeal to the supreme court.

24 Sec. 14. Section 91C.8, subsection 5, Code 2011, is amended
25 to read as follows:

26 5. The administrative penalties which may be imposed under
27 this section shall be not more than five hundred dollars
28 in the case of a first violation and not more than five
29 thousand dollars for each violation in the case of a second or
30 subsequent violation. All administrative penalties collected
31 pursuant to this chapter shall be deposited in the general
32 workplace safety improvement fund of the state established by
33 section 88C.3.

34 Sec. 15. Section 91E.4, subsection 1, Code 2011, is amended
35 to read as follows:

1 1. An employer who violates section 91E.3 is subject to
2 a civil penalty of up to one thousand dollars. Any civil
3 penalty recovered shall be deposited in the workplace safety
4 improvement fund established by section 88C.3.

5 Sec. 16. Section 92.22, subsection 5, Code 2011, is amended
6 to read as follows:

7 5. Any civil penalties recovered pursuant to this section
8 shall be ~~remitted by the commissioner to the treasurer of~~
9 ~~state for deposit~~ deposited in the general workplace safety
10 ~~improvement fund of the state~~ established by section 88C.3.

11 Sec. 17. Section 94A.6, subsection 2, Code 2011, is amended
12 to read as follows:

13 2. If a person violates a provision of this chapter
14 or refuses the commissioner access to records, books, and
15 papers pursuant to an examination under section 94A.5, the
16 commissioner shall assess a civil penalty against the person
17 in an amount not greater than two thousand dollars. Any civil
18 penalty recovered shall be deposited in the workplace safety
19 improvement fund established by section 88C.3.

20	EXPLANATION
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21 Division I of this bill establishes a workplace safety
22 improvement program for the purpose of awarding grants and
23 loans to employers in this state to promote improvements in
24 workplace safety. The bill provides that the program shall be
25 administered by the labor commissioner.

26 The bill provides that an employer is eligible to apply for a
27 grant or loan from the workplace safety improvement program if
28 the employer has had an on-site consultation visit conducted by
29 a consultant from the bureau of consultation and education of
30 the division of labor services of the department of workforce
31 development, and the consultant recommends to the employer
32 specific safety practices or equipment designed to reduce the
33 risk of illness or injury to employees. The bill provides that
34 the labor commissioner shall make grants or loans to employers
35 for the cost of implementing such safety recommendations,

1 and employers shall use such funds solely for the purpose of
2 implementing those recommendations.

3 The bill establishes a workplace safety improvement fund
4 under the control of the labor commissioner and appropriates
5 moneys deposited or paid into the fund to the commissioner for
6 the purposes of the workplace safety improvement program.

7 The bill provides that the labor commissioner shall adopt
8 rules necessary to administer the bill.

9 Division II of the bill provides that various civil
10 penalties collected by the department of workforce development
11 are to be deposited in the workplace safety improvement fund.
12 Such moneys are currently deposited in the general fund of the
13 state.